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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,868	04/30/2007	Wataru Ikeda	P41852-01	3584
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EXAMINER				
SELLERS, DANIEL R				
ART UNIT		PAPER NUMBER		
2614				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/587,868

Applicant(s)

IKEDA ET AL.

Examiner

DANIEL R. SELLERS

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim 7** is rejected under 35 U.S.C. 101 because a program is non-statutory subject matter. Specifically, a program is interpreted as software, which is directed towards an abstract idea or mathematical algorithms. Furthermore, there is no explicit evidence that the claim is not directed towards a man-made tangible embodiment of a program, such as a non-transitory computer readable medium. Therefore, the claimed subject matter is non-patentable subject matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-4 and 6-8** are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weaver et al. (hereinafter **Weaver**), US 2004/0128402 A1.

5. Regarding **claim 1**, Weaver teaches a reproduction apparatus comprising:

a selecting unit operable to make a judgment on which among a plurality of predetermined conditions are satisfied by each of a plurality of audio streams, and to select an audio stream to be reproduced among the plurality of audio streams, in accordance with each combination of predetermined conditions satisfied by each audio stream (see Weaver, ¶ 0029-0032); and

a reproducing unit operable to reproduce the selected audio stream (see Weaver, figure 1, unit 106), wherein

one of the plurality of predetermined conditions is that a channel attribute of an audio stream is surround and a surround output is available (see Weaver, ¶ 0029), and

if an audio frame of a target audio stream is composed of basic data and extended data, the selecting unit judges whether or not the predetermined condition is satisfied by detecting whether or not a channel attribute of the extended data is surround and the extended data is capable to be processed (see Weaver, ¶ 0029, 0031, table 1, and figure 6).

Weaver teaches a unit that judges whether or not the reproducing unit (Weaver, unit 106) can reproduce a surround stream by checking the feature registry (see Weaver, ¶ 0030, and figure 2, units 106 and 216).

6. Regarding **claim 2**, see the preceding rejection with respect to claim 1. Weaver teaches the reproduction apparatus of claim 1, further comprising:

a status register that stores a first flag group, which corresponds to basic data of a plurality of encoding methods, and a second flag group which corresponds to extended data of the plurality of encoding methods, wherein the first flag group is composed of a plurality of flags that indicate, for each of the plurality of encoding methods, whether or not the reproduction apparatus has a capability to process the basic data, the second flag group is composed of a plurality of flags that indicate, for each of the plurality of encoding methods, whether or not the reproduction apparatus has a capability to process the extended data, and the detection of whether or not the extended data is capable to be processed is accomplished by checking whether or not a value set in a flag, which belongs to the first flag group and corresponds to the target audio stream, is a predetermined value (see Weaver, figures 5-7 and ¶ 0030-0038, wherein the feature registry reads on a first and second flag group with these features).

7. Regarding **claim 3**, see the preceding rejection with respect to claim 2.

Weaver teaches the reproduction apparatus of claim 2, wherein

the capability to process the extended data is categorized into three levels referred to as a first level, a second level, and a third level, wherein at the first level, it is capable to decode the extended data and output a result of the decoding as a surround output; at the second level, it is capable to decode the extended data and output a result of the decoding as a stereo output; and at the third level, neither a surround output nor a stereo output is available, and the predetermined value is a value indicating the first level (see Weaver, ¶ 0029, and figure 6, wherein the first level is surround, the second is stereo, and the third is mono).

8. Regarding **claim 4**, see the preceding rejection with respect to claim 1.

Weaver teaches the reproduction apparatus of claim 1, wherein

the detection of whether or not the extended data is capable to be processed is accomplished by checking whether or not either the reproduction apparatus or a device connected to the reproduction apparatus has a capability to decode the extended data (see Weaver, ¶ 0031, wherein it is implied that not only a stereo mode will be checked, but a mono and surround if an audio signal source with a mono or surround property to be reproduced exists).

9. Regarding **claim 6** see the preceding rejection with respect to claim 1.

Weaver teaches the reproduction apparatus of claim 1, wherein

the detection of whether or not the extended data is capable to be processed is accomplished by checking whether or not a speaker of a connected device supports surround audio (see Weaver, ¶ 0031, , wherein it is implied that not only a stereo mode will be checked, but a mono and surround if an audio signal source with a mono or surround property to be reproduced exists).

10. Regarding **claim 7**, Weaver teaches a program that causes a computer to execute the steps of:

making a judgment on which among a plurality of predetermined conditions are satisfied by each of a plurality of audio streams, and selecting an audio stream to be reproduced among the plurality of audio streams, in accordance with each combination of predetermined conditions satisfied by each audio stream (see Weaver, ¶ 0029-0032); and reproducing the selected audio stream, wherein

one of the plurality of predetermined conditions is that a channel attribute of an audio stream is surround and a surround output is available (see Weaver, figure 1, unit 106 and ¶ 0029), and

if an audio frame of a target audio stream is composed of basic data and extended data, the audio stream selecting step judges whether or not the predetermined condition is satisfied by detecting whether or not a channel attribute of the extended data is surround and the extended data is capable to be processed (see Weaver, ¶ 0029, 0031, table 1, and figure 6).

11. Regarding **claim 8**, Weaver teaches a reproduction method comprising the steps of:

making a judgment on which among a plurality of predetermined conditions are satisfied by each of a plurality of audio streams, and selecting an audio stream to be reproduced among the plurality of audio streams, in accordance with each combination of predetermined conditions satisfied by each audio stream (see Weaver, ¶ 0029-0032); and reproducing the selected audio stream, wherein

one of the plurality of predetermined conditions is that a channel attribute of an audio stream is surround and a surround output is available (see Weaver, figure 1, unit 106 and ¶ 0029), and

if an audio frame of a target audio stream is composed of basic data and extended data, the audio stream selecting step judges whether or not the predetermined condition is satisfied by detecting whether or not a channel attribute of the extended data is surround and the extended data is capable to be processed (see Weaver, ¶ 0029, 0031, table 1, and figure 6).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 1 above, and further in view of Herre et al. (hereinafter Herre), US 2005/0074127 A1.

14. Regarding **claim 5**, see the preceding rejection with respect to claim 1. Weaver teaches the reproduction apparatus of claim 1, wherein Weaver does not explicitly teach this detection, however Weaver is capable of receiving stereo from a streaming source (e.g. MP3PRO). It would have been obvious for one of ordinary skill in the art at the time of the invention to use the teachings of Weaver to make sure that the bitrate can be supported without transmission errors in the instance of streaming audio to provide the best streaming source of audio.

Herre teaches an MP3 surround format (see Herre, figures 8 and 9, and ¶ 0066). It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Weaver and Herre for providing surround streaming capabilities if it can be supported (see Weaver, ¶ 0029 and figures 5-7).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lindemann et al., US 2004/0223622 A1, teaches a digital wireless loudspeaker system with enabling of different speaker modes (see ¶ 0064-0066); and

Imadate, US 2004/0190726 A1, teaches a switching circuit to switch to a quasi-stereo mode when a mono signal is input (see ¶ 0006 and figure 3).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL R. SELLERS whose telephone number is (571)272-7528. The examiner can normally be reached on Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel R. Sellers/
Examiner, Art Unit 2614

/Vivian Chin/
Supervisory Patent Examiner, Art Unit 2614